

COMMITTEE AMENDMENT FORM

Committee PSIA Page Number(s) 1

Ordinance I.D.# 07-0-0489 Section(s) Caption

Resolution I.D.# _____ Paragraph _____

Date March 13, 2007

Amendment: After the word, "Georgia"
insert "entitled, "disorderly conduct"")"

AN ORDINANCE BY:

COUNCILMEMBER IVORY LEE YOUNG, JR.

07-0-0489

**AS AMENDED BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION
COMMITTEE**

**AN ORDINANCE TO REPEAL SUBSECTION (6) OF SECTION 106-81
OF THE CODE OF ORDINANCES OF THE CITY OF ATLANTA,
GEORGIA (ENTITLED, "DISORDERLY CONDUCT"); TO WAIVE
CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.**

Whereas, the Atlanta Police Department frequently arrests people for disorderly conduct section 6 ("DC 6") solely on the grounds that the accused was in a place where illegal drugs or narcotics are sold or possessed; and

Whereas, frequently inadequate evidence is provided connecting the accused to the drug activity going on in the place other than that the accused was merely present; and

Whereas, the Georgia appellate courts have consistently held that mere presence at the scene of a crime is not enough to obtain a criminal conviction; and

Whereas, the Georgia Court of Appeals held that mere presence in a known drug area is insufficient to convict one of a crime; and

Whereas, the Georgia Court of Appeals held that a jury is not authorized to find a person who was merely present at the scene of the commission of a crime at the time of its perpetration guilty of consent in and concurrence in the commission of the crime, unless the evidence shows, beyond a reasonable doubt, that such person committed the alleged crime, helped in the actual perpetration of the crime, or participated in the criminal endeavor; and

Whereas, DC 6 arrests in the City of Atlanta supports the interpretation that being present at the scene of a crime is enough to arrest and convict an individual of committing an unlawful act; and

Whereas, the prosecutors must be able to prove each and every element of the crime charged; and

Whereas, DC 6 arrests may negatively impact citizens who may not otherwise have an arrest record.

**NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
ATLANTA, GEORGIA:**

Section 1. Section 106-81 (entitled "disorderly conduct"), which currently provides as follows:

(12) Throw bottles, paper, cans, glass, sticks, stones, missiles or any other debris on public property.

(13) Accost or force oneself upon the company of another;

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Accosting means approaching or speaking to someone in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his/her person, or upon property in his/her immediate possession.

Forcing oneself upon the company of another means continuing to request or solicit any item of value or an individual's company from a person after that person has made a negative response, blocking the passage of the individual addressed or otherwise engaging in conduct which could reasonably be construed as intended to compel or force a person to accede to demands.

is hereby amended by repealing and deleting subsection (6) thereof and by renumbering the subsections following subsection (6) accordingly, so that when amended said section 106-81 shall provide as follows:

- (1) Act in a violent or tumultuous manner toward another whereby any person is placed in fear of the safety of such person's life, limb or health;
- (2) Act in a violent or tumultuous manner toward another whereby the property of any person is placed in danger of being damaged or destroyed;
- (3) Cause, provoke or engage in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another;
- (4) Assemble or congregate with another or others for the purpose of, or with the intent to, engage in gaming;
- (5) Be in or about any place, alone or with another or others, with the purpose of or intent to engage in any fraudulent scheme, trick or device to obtain any money or valuable thing; or to aid or abet any person or persons in doing so;
- (6) Direct fighting words toward another, that is, words which by their very nature tend to incite an immediate breach of the peace;
- (7) Interfere, by acts of physical obstruction, another's pursuit of a lawful occupation;
- (8) Congregate with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic, and to fail to clear that public way after being ordered to do so by a city police officer or other lawful authority;

- (9) Stand or remain in or about any street, sidewalk, overpass or public way so as to impede the flow of vehicular or pedestrian traffic, and to fail to clear such street, sidewalk, overpass or public way after being ordered to do so by a police officer or other lawful authority;
- (10) Disrupt by actions which tend to incite a breach of the peace the undisturbed activities of any house of worship, hospital, surgi-center, or home for the elderly;
or
- (11) Throw bottles, paper, cans, glass, sticks, stones, missiles or any other debris on public property.
- (12) Accost or force oneself upon the company of another;

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

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Section 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of any such conflict.

AN ORDINANCE BY:

COUNCILMEMBER IVORY LEE YOUNG, JR.



07-0 -0489

AN ORDINANCE TO REPEAL SUBSECTION (6) OF SECTION 106-81 OF THE CODE OF ORDINANCES OF THE CITY OF ATLANTA, GEORGIA; TO WAIVE CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

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Whereas, DC 6 arrests in the City of Atlanta supports the interpretation that being present at the scene of a crime is enough to arrest and convict an individual of committing an unlawful act; and

Whereas, the prosecutors must be able to prove each and every element of the crime charged; and

Whereas, DC 6 arrests may negatively impact citizens who may not otherwise have an arrest record.

NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA:

Section 1. Section 106-81 (entitled "disorderly conduct"), which currently provides as follows:

It shall be unlawful for any person within the corporate limits of the city to engage in any conduct described in the following subsections; provided, however, that no person shall

(13) Accost or force oneself upon the company of another;

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Accosting means approaching or speaking to someone in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his/her person, or upon property in his/her immediate possession.

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- (2) Act in a violent or tumultuous manner toward another whereby the property of any person is placed in danger of being damaged or destroyed;
- (3) Cause, provoke or engage in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another;
- (4) Assemble or congregate with another or others for the purpose of, or with the intent to, engage in gaming;
- (5) Be in or about any place, alone or with another or others, with the purpose of or intent to engage in any fraudulent scheme, trick or device to obtain any money or valuable thing; or to aid or abet any person or persons in doing so;
- (6) Direct fighting words toward another, that is, words which by their very nature tend to incite an immediate breach of the peace;
- (7) Interfere, by acts of physical obstruction, another's pursuit of a lawful occupation;
- (8) Congregate with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic, and to fail to clear that public way after being ordered to do so by a city police officer or other lawful authority;
- (9) Stand or remain in or about any street, sidewalk, overpass or public way so as to impede the flow of vehicular or pedestrian traffic, and to fail to clear such street,

sidewalk, overpass or public way after being ordered to do so by a police officer or other lawful authority;

- (10) Disrupt by actions which tend to incite a breach of the peace the undisturbed activities of any house of worship, hospital, surgi-center, or home for the elderly; or
- (11) Throw bottles, paper, cans, glass, sticks, stones, missiles or any other debris on public property.
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Section 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of any such conflict.